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[H.R. 235, Permanent Internet Tax Freedom Act](#)

FLOOR SITUATION

On Tuesday, June 9, 2015, the House will consider [H.R. 235](#), *the Permanent Internet Tax Freedom Act*, under suspension of the rules. H.R. 235 was introduced on January 9, 2015, by Rep. Bob Goodlatte (R-VA) and was referred to the Committee on the Judiciary.

SUMMARY

H.R. 235 permanently extends the Internet Tax Freedom Act, which generally prohibits state and local governments from taxing Internet access or placing multiple or discriminatory taxes on Internet commerce. The current ban on these taxes is scheduled to expire on October 1, 2015. H.R. 235 makes the moratorium permanent by striking the 2015 end date.

BACKGROUND

In 1998, Congress enacted the Internet Tax Freedom Act (Title XI of Division C of [Public 105-277](#)). The law imposed a five-year moratorium on the ability of state and local governments to: (1) impose new taxes on Internet access, or (2) impose any multiple or discriminatory taxes on electronic commerce. The Act also grandfathered certain state and local access taxes that were “generally imposed and actually enforced prior to October 1, 1998.” This ban has been extended three times, with minor modifications, and has enjoyed bipartisan support.¹ The permanent version would also have the effect of ending the grandfathers.

“A multiple tax means ‘any tax that is imposed by one State . . . on . . . essentially the same electronic commerce’ that is taxed by ‘another State . . . without a credit for taxes paid in other jurisdictions.’ For example, a resident of Virginia downloads a movie from a company based in Seattle while waiting at the airport in Chicago. Three states could claim the right to tax it; Virginia, Washington and Illinois. The statute does not establish priority among those claims. It merely requires credits so the customer is not subject to three separate tax levies.”²

¹ [House Report 113-510](#) at 2.

² *Id.* at 3.

“A discriminatory tax on Internet commerce is defined as one that is either ‘not generally imposed’ or is ‘not imposed at the same rate’ on similar transactions ‘accomplished through other means.’ Another form of discriminatory tax is separately classifying Internet service providers (ISPs) for purposes of applying a higher tax rate than is imposed on similar information services.”³ The term further includes “any tax where a factor in determining a remote seller’s collection obligation is the sole ability to access a site on a seller’s remote server. Similarly covered are taxes where the ISP is deemed the seller’s agent solely because it displays information or processes orders for the seller on an out-of-state computer server.”⁴

The presence of the Internet in our everyday lives and its importance to our nation’s economic vitality are primary reasons for permanently prohibiting state and local taxes on Internet access. According to a 2010 [survey](#) by the National Telecommunications and Information Administration, 24% of Americans who do not use the Internet reported cost as the main reason.⁵ Moreover, the Internet “has become the primary driver of U.S. economic growth, innovation and productivity” and is “indispensable for finding jobs and accessing education and health care resources.”⁶ “It helps small businesses find new markets and consumers across the country and the world.”⁷

The House passed a nearly identical bill ([H.R. 3086](#)) by voice vote on July 15, 2014. The Senate did not act on that measure during the 113th Congress.

COST

A Congressional Budget Office (CBO) cost estimate is currently unavailable. However, CBO [estimated](#) that nearly identical legislation passed during the 113th Congress would have no impact on the federal budget.

STAFF CONTACT

For questions or further information please contact [Jerry White](#) with the House Republican Policy Committee by email or at 5-0190.

³ Id.

⁴ Id.

⁵ Id. at 6

⁶ Id. at 5.

⁷ Id.